

Senate Bill No. 27

CHAPTER 4

An act to add Section 53084.5 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 2009. Filed with Secretary
of State June 5, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 27, Hancock. Local agencies: sales and use tax: reallocation.

Existing law prohibits a redevelopment agency or a local agency, as defined, from providing any form of financial assistance to a vehicle dealer or big box retailer, or a business entity that sells or leases land to a vehicle dealer or big box retailer, that is relocating from the territorial jurisdiction of one community or local agency to the territorial jurisdiction of another community or local agency, as specified.

This bill would, on or after the date this act takes effect, prohibit a local agency from entering into any form of agreement with a retailer, a consultant or agent representing a retailer, or any other person that would involve the payment, transfer, diversion, or rebate of any amount of Bradley-Burns local tax proceeds for any purpose if the agreement results in a reduction in the amount of revenue that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency, with specified exceptions.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. In enacting this measure, the Legislature finds and declares that the facts associated with, and damages caused to, cities by the economic development agreements entered into between the cities and consulting companies, referred to as developers, that provide, under specified circumstances, for the disbursement to the consulting company of an amount of the local sales tax attributable to sales made within those cities by new retailers over a period of time, has resulted in an unjust reallocation of local Bradley-Burns sales and use taxes away from several cities.

SEC. 2. Section 53084.5 is added to the Government Code, to read:

53084.5. (a) On or after the date the act adding this section takes effect, a local agency shall not enter into any form of agreement that would result,

directly or indirectly, in the payment, transfer, diversion, or rebate of any tax revenue resulting from the imposition of a sales and use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) to any person for any purpose when both of the following apply:

(1) The agreement results in a reduction in the amount of revenue that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency from the tax proceeds collected under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code). This subdivision shall not apply to a reduction in the use tax proceeds that are distributed to that other local agency through one or more countywide pools.

(2) The retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency. This subdivision shall not apply if the retailer has expanded its operations into another jurisdiction with the result that the retailer is conducting a comparable operation within the jurisdiction of both local agencies.

(b) For the purposes of this section, the following definitions have the following meanings:

(1) “Local agency” means a chartered or general law city, a chartered or general law county, or a city and county.

(2) “Retailer” means a retailer as defined by Section 6015 of the Revenue and Taxation Code.

(3) “Physical presence” means the lease or ownership of any real property for the purpose of carrying on business operations.

(c) This section shall not apply to local tax proceeds provided by a local agency to a retailer if the funds are used to reimburse the retailer for the construction of public works improvements that serve all or a portion of the territorial jurisdiction of the local agency.

(d) This section shall not apply to an agreement to pay or rebate any tax revenue resulting from the imposition of a sales and use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) relating to a buying company. “Buying company” means, and is limited to, a legal entity that is separate from another legal entity that owns, controls, or is otherwise related to, the buying company and which has been created for the purpose of performing administrative functions, including acquiring goods and services for the other entity, as defined by the State Board of Equalization, and meets requirements of a buying company under Sections 6066 to 6075, inclusive, of the Revenue and Taxation Code, and the regulations adopted pursuant to those sections.

(e) This section shall not apply to any agreement by a local agency to pay or rebate any use tax revenue resulting from the imposition of a sales and use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue

and Taxation Code) relating to a use tax direct payment permit issued under Section 7051.3 of the Revenue and Taxation Code.

(f) Nothing in this section shall be interpreted to limit the ability of a local agency to contract with or otherwise enter into an agreement pursuant to subdivision (b) of Section 7056 of the Revenue and Taxation Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to address the unjust reallocation of local sales and use taxes away from several cities, at the earliest possible time, it is necessary that this act take effect immediately.